

Regular Session, 2009

SENATE BILL NO. 301

BY SENATOR DUPRE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME/PUNISHMENT. Creates the crime of false statements concerning participation in medical assistance programs. (8/15/09)

AN ACT

To enact R.S. 14:126.5, relative to perjury; to create the crime of false statements concerning participation in medical assistance programs; to provide for elements of the crime; to provide for definitions; to provide for penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R. S. 14:126.5 is hereby enacted to read as follows:

§126.5. False statements concerning participation in medical assistance programs

A. The crime of false statement concerning participation in medical assistance programs created under the Social Security Act and administered by the Department of Health and Hospitals is the knowing and intentional offering of a false written or oral statement for the purpose of:

(1) Obtaining, attempting to obtain or maintaining employment with a provider, or

(2) Obtaining, attempting to obtain or maintaining employment as a provider, or

1 (3) Obtaining, attempting to obtain or retaining any monies or payments
2 derived in whole or part from any state or federal medical assistance funds
3 while excluded from participation in any state or federal medical assistance
4 program, or

5 (4) Obtaining, attempting to obtain or maintaining a contract with a
6 provider, or

7 (5) Sharing in proceeds from a provider and participating in the
8 ownership or management of a provider.

9 B. For purposes of this Section:

10 (1) "Participation" means employment for a provider in any capacity,
11 employment as a provider in any capacity, or obtaining any monies derived in
12 whole or part from any medical assistance program.

13 (2) "Medical assistance program" means any state or federally funded
14 program paid for directly or indirectly with federal and/or state funds.

15 (3) "Exclusion" means that a state or federal oversight agency has
16 determined that the person or provider can no longer be employed by contract
17 with, or have an ownership and/or management interest in any individual or
18 entity that provides services which will be billed directly or indirectly to any
19 medical assistance program.

20 (4) "Provider" means an actual provider of medical assistance or other
21 service, including any managed care organization providing services pursuant
22 to a managed care program operated, funded, or reimbursed by any state or
23 federally funded medical assistance program, including but not limited to the
24 Medicaid program.

25 (5) "Payment" includes a payment or approval for payment, any portion
26 of which is paid out of any medical assistance program funds, including but not
27 limited to the Medicaid program; "Payment" also includes a payment or
28 approval for payment by a contractor, subcontractor, or agent for the Medicaid
29 program, or any other state or federally-funded medical assistance program

pursuant to a managed care program, which is operated, funded, or reimbursed by the Medicaid program, or any other state or federally-funded medical assistance program.

(6) "Oversight Agency" means the state or federal agency responsible for the administration of the medical assistance program, including but not limited to the Department of Health and Hospitals, the Department of Health and Human Services, the office of the inspector general, or any agent thereof.

C. (1) Any person who violates the provisions of this Section when the statements are based on any reason other than a criminal conviction shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(2) Any person who violates the provisions of this Section when the false statements are results of a felony criminal conviction shall be fined not less than one thousand dollars nor more than twenty thousand dollars, or imprisoned, with or without hard labor for not more than five years, or both.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michael Bell.

DIGEST

Proposed law creates the crime of false statement concerning participation in medical assistance programs.

Proposed law provides that a person commits the crime of false statement concerning participation in medical assistance programs when he knowingly and intentionally offers a false written or oral statement for the purpose of:

- (1) Obtaining, attempting to obtain or maintaining employment with a provider, or
- (2) Obtaining, attempting to obtain or maintaining employment as a provider, or
- (3) Obtaining, attempting to obtain or retaining any monies or payments derived in whole or part from any state or federal medical assistance funds while excluded from participation in any state or federal medical assistance program, or
- (4) Obtaining, attempting to obtain or maintaining a contract with a provider, or
- (5) Sharing in proceeds from a provider and participating in the ownership or management of a provider.

Proposed law provides for the following definitions:

- (1) "Participation" means employment for a provider in any capacity, employment as a provider in any capacity, or obtaining any monies derived in whole or part from any medical assistance program.
- (2) "Medical assistance program" means any state or federally funded program paid for directly or indirectly with federal and/or state funds.
- (3) "Exclusion" means that a state or federal oversight agency has determined that the person or provider can no longer be employed by, contract with, or have an ownership and/or management interest in any individual or entity that provides services which will be billed directly or indirectly to any medical assistance program.
- (4) "Provider" means an actual provider of medical assistance or other service, including any managed care organization providing services pursuant to a managed care program operated, funded, or reimbursed by any state or federally funded medical assistance program, including but not limited to the Medicaid program.
- (5) "Payment" includes a payment or approval for payment, any portion of which is paid out of any medical assistance program funds, including but not limited to the Medicaid program; "Payment" also includes a payment or approval for payment by a contractor, subcontractor, or agent for the Medicaid program, or any other state or federally-funded medical assistance program pursuant to a managed care program, which is operated, funded, or reimbursed by the Medicaid program, or any other state or federally-funded medical assistance program.
- (6) "Oversight Agency" means the state or federal agency responsible for the administration of the medical assistance program, including but not limited to the Department of Health and Hospitals, the Department of Health and Human Services, the office of the inspector general, or any agent thereof.

Proposed law provides for any person who violates the provisions of proposed law when the statements are based on any reason other than a criminal conviction will be fined not more than \$1,000 dollars or imprisoned for not more than six months, or both.

Proposed law also provides for any person who violates proposed law when the false statements are results of a felony criminal conviction will be fined not less than \$1,000 dollars nor more than \$20,000 dollars, or imprisoned with or without hard labor for not more than five years, or both.

Effective August 15, 2009.

(Adds R.S. 14:126.5)